



AF \$

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Attorney Docket No. AUS920010007US1

IN RE APPLICATION OF:

Robert E. Allen et al

Serial No. 09/773,190

Filed: January 31, 2001

For: Transaction Status
Messaging

\$
\$
\$
\$
\$
\$
\$
\$

Examiner: Ojo O. Oyebisi

Art Unit: 3628

APPEAL BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

This Brief is submitted in triplicate in support of the Appeal in
the above-identified application.

**CERTIFICATE OF MAILING
37 CFR 1.8(a)**

I hereby certify that this correspondence is being deposited with the United States Postal Service as First-Class Mail in an
envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on the date below:

December 7, 2005

Date

Robert V. Wilder

Signature

**APPEAL BRIEF
PAGE 1 OF 22**

**Serial Number 09/773,190
Attorney Docket No. AUS920010007US1**

TABLE OF CONTENTS

REAL PARTY IN INTEREST	4
RELATED APPEALS AND INTERFERENCES	4
STATUS OF CLAIMS	4
STATUS OF AMENDMENTS	4
SUMMARY OF THE INVENTION	5
ISSUES	6
GROUPING OF THE CLAIMS	7
ARGUMENT	7
I. With regard to the rejection of claims 1-7, 9, 13-19, 21 and 23-28 under 35 USC 103(a) as being unpatentable over Potter in view of Burrus, it is submitted that there is no suggestion in either reference for the proposed combination and even the proposed combination fails to suggest several of the claimed features. 7	
II. With regard to the rejection of claims 8 and 20 under 35 USC 103(a) as being unpatentable over Potter, in view of Burrus and in still further view of Harrington, it is submitted that there is no suggestion in any of the references for the proposed combination and even the proposed combination fails to suggest several of the claimed features..... 11	

APPEAL BRIEF
PAGE 2 OF 22

Serial Number 09/773,190
Attorney Docket No. AUS920010007US1

77	III. With regard to the rejection of claims 10-12 and 22-24	
78	as being unpatentable under 35 USC 103(a) over Potter, in view of	
79	Burrus and in still further view of Davis, it is submitted that	
80	the hypothetical combination of Potter, Burrus and Davis cannot	
81	render claims 10-12 and 22-24 obvious under 35 USC 103(a) since	
82	there is no suggestion in any of the three references for the	
83	proposed combination, and even the proposed hypothetical	
84	combination fails to suggest several of the claimed features..	12
85		
86		
87	CONCLUSION	12
88		
89	APPENDIX (Pending Claims)	14-22
90		

APPEAL BRIEF
PAGE 3 OF 22

Serial Number 09/773,190
Attorney Docket No. AUS920010007US1



REAL PARTY IN INTEREST

The present application is assigned to International Business Machines Corporation, the real party in interest.

RELATED APPEALS AND INTERFERENCES

There are no related Appeals or Interferences currently pending.

STATUS OF THE CLAIMS

Claims 1-28 are pending and stand finally rejected by the Examiner as noted in the Final Office Action mailed July 7, 2005.

STATUS OF AMENDMENTS

Prior to the Final Office Action (mailed 7/7/05), there was only one substantive Office Action mailed 7/20/2004 and one substantive Amendment mailed 10/19/2004. The Second and Final Office Action cited four new references, Potter (5,787,402), Burrus (4,716,523), Harrington (6,161,099) and Davis (6,041,314) for the first time and rejected claims 1-28 under 35 USC 103(a) as being unpatentable over various combinations of the newly cited references. More specifically, claims 1-7, 9, 13-19, 21 and 23-28 were rejected under 35 USC 103(a) as being unpatentable

**APPEAL BRIEF
PAGE 4 OF 22**

***Serial Number 09/773,190*
Attorney Docket No. AUS920010007US1**

over Potter in view of Burrus, claims 8 and 20 were rejected under 35 USC 103(a) as being unpatentable over Potter in view of Burrus and in still further view of Harrington, and claims 10-12 and 22-24 were rejected under 35 USC 103(a) as being unpatentable over Potter in view of Burrus and in still further view of Davis. The last entered substantive amendment was submitted 10/19/2004 which amended the claims to the text shown in the Appendix.

SUMMARY OF THE INVENTION

The present application discloses a method and implementing computer system in which a client is able to initiate an ongoing electronic transaction between a communication device (403 Figure 4) and a network site 401 Figure 4). A separate port (Port C Figure 4) is established for the subsequent direct transmission of transaction status messages from the network site 401 back to the user device 403. The client is enabled (325 Figure 3) to customize a signaling system (323 Figure 3) at the user terminal to designate various signals to correspond to different kinds of the transaction status messages such that the client is signaled (611 Figure 6) directly when a transaction status change occurs (605 Figure 6) with respect to the electronic transaction initiated by the client.

The above methodology is set forth in pending claim 1, which recites:

**APPEAL BRIEF
PAGE 5 OF 22**

Serial Number 09/773,190
Attorney Docket No. AUS920010007US1

147
148 "1. A method for processing electronic transactions, said method comprising:

149
150 receiving input by a server terminal from a client device over a first communication port to initiate
151 an electronic transaction, said electronic transaction requiring a subsequent communication of an
152 occurrence of a subsequent event from said server terminal to said client device;

153
154 establishing a second communication port on said client device for directly coupling said server
155 terminal to said client device;

156
157 disconnecting said server terminal from said client device;

158
159 re-connecting said server terminal to said client device through said second communication port
160 by said server terminal upon an occurrence of said subsequent event; and

161
162 transferring said subsequent communication information regarding said electronic transaction
163 subsequent event from said server terminal to said client device over said second communication
164 port..

165
166 **ISSUES**

167
168 1. Is the Examiner's rejection of claims 1-7, 9, 13-19, 21 and
169 23-28 under 35 USC 103(a) as being unpatentable over Potter in
170 view of Burrus well founded?

171
172 2. Is the Examiner's rejection of claims 8 and 20 under 35 USC

APPEAL BRIEF
PAGE 6 OF 22

Serial Number 09/773,190
Attorney Docket No. AUS920010007US1

103(a) as being unpatentable over Potter, in view of Burrus and
in still further view of Harrington well founded?

3. Is the Examiner's rejection of claims 10-12 and 22-24 as being
unpatentable under 35 USC 103(a) over Potter, in view of Burrus
and in still further view of Davis well founded?

GROUPING OF THE CLAIMS

For purposes of this Appeal, claims 1-28 stand or fall together.

ARGUMENT

I. With regard to the rejection of claims 1-7, 9, 13-19, 21 and
23-28 under 35 USC 103(a) as being unpatentable over Potter in
view of Burrus, it is submitted that there is no suggestion in
either reference for the proposed combination and even the
proposed combination fails to suggest several of the claimed
features.

All of the independent claims, i.e. claims 1, 13, 25, 26 and 28,
are included in the group of claims that was rejected under 35
USC 103(a) as being anticipated by the newly cited Potter and
Burrus references. Potter discloses a system for performing a
financial transaction in which a bank program prompts a user for
input and automatically assembles an offer response to the
customer based on a number of different parameters. If the

APPEAL BRIEF
PAGE 7 OF 22

Serial Number 09/773,190
Attorney Docket No. AUS920010007US1

202 customer delays for too long in accepting the offer, the bank
203 program automatically withdraws the offer and updates the offer
204 to avoid a "stale" conversion rate. Potter does not disclose
205 "receiving input by a server terminal over a first port",
206 "establishing a second communication port on said client device
207 for directly coupling said server and said client device",
208 "disconnecting..", "reconnecting ..." and "transferring a
209 subsequent communication over a second communication port", as
210 those recitations are clearly set forth in the independent claims
211 1, 13, 25, 26 and 28. In the exemplary embodiment illustrated in
212 the application, after a user places a bid in an auction, a
213 second port is established for directly coupling said server and
214 said client device. Nothing even similar is shown or suggested by
215 Potter. Next in the example, the user is disconnected but is
216 alerted and advised directly when the user's entered bid is no
217 longer a winning bid (i.e. another bidder had entered a higher
218 bid). Nothing even similar is shown or suggested by Potter. Next,
219 the user is allowed to re-enter the auction site to place a new
220 bid before the auction is completed. Nothing even similar is
221 shown or suggested by Potter. The process disclosed and claimed
222 by the applicant is accomplished through code on the server which
223 is effective, in connection with the bidding process, to
224 establish or initialize a new direct alert port (separate from
225 the port being used for the initial registration) between the
226 auction site and the user terminal for the transmission of
227 messages from the auction site server to the user terminal. The
228 server code compares the user's bid with subsequent received
229 bids, and when the user's bid is no longer winning, the server
230 sends a message to the user terminal over the assigned separate
231 port to sound the user-selected audio alert scenario. When the

APPEAL BRIEF
PAGE 8 OF 22

Serial Number 09/773,190
Attorney Docket No. AUS920010007US1

232 user hears the alert, the user knows that the user's bid is no
233 longer winning. At that time the user may return to the auction
234 site to enter a new bid. There is not even a suggestion in Potter
235 that a second port be established for subsequent communication,
236 and that the client-server link be disconnected, and that,
237 subsequent thereto, a second communication link be established by
238 the server through the second port for communicating the
239 occurrence of a subsequent event, i.e. the change of status of
240 the entered bid. The disconnect-reconnect sequence of the present
241 invention is a necessary claimed element of the present invention
242 but is not suggested anywhere in the Potter reference. Further,
243 there is no section of the Potter patent even referenced by the
244 Examiner in the Final Office Action to correspond, *inter alia*, to
245 the claimed establishment of a second port, and then the
246 disconnect and reconnect sequence as claimed by the applicant.
247 The establishment of a second port is required to enable the
248 server to reconnect to the client upon the occurrence of a
249 subsequent higher bid. In Potter, if the customer delays too long
250 in accepting an offer from a bank, the offer is withdrawn (not
251 disconnected) and updated using the same port. This "withdrawal"
252 is cited by the Examiner on page 2 of the Final Office Action as
253 being equivalent to the disconnect-reconnect feature of the
254 present invention. Clearly this is neither stated nor intended by
255 Potter. Potter maintains a single port and merely changes offer
256 terms and conditions. There is no disconnection or re-connection
257 or establishment of a second port specifically assigned to
258 communicate information from the server to the customer upon the
259 occurrence of an event happening after the client has
260 disconnected.

APPEAL BRIEF
PAGE 9 OF 22

Serial Number 09/773,190
Attorney Docket No. AUS920010007US1

262 Burrus is cited to show a dual mode data transfer controller with
263 numerous communication ports. The Examiner alleges that "since
264 Burrus ports can be configured to support different mode (sic) of
265 operations, one of ordinary skill in the art would have modified
266 the device of Potter to include a dual mode data transfer
267 controller with two ports configured to receive data on one and
268 transmit data on another to speed up the delivery rate of
269 transaction messages to a user device". There is no referenced
270 language or suggestion in the Burrus patent or any other
271 reference for the Examiner's "conclusion" as stated above.
272 Further, there is no reason, either explicitly stated or even
273 suggested in Burrus or Potter that would prompt one to combine
274 the two references for any purpose. Further, even a forced
275 insertion of the Burrus dual mode data transfer controller into
276 the Potter system (a combination for which there is no suggestion
277 in either reference) would render the Potter system inoperable
278 for its intended purpose and still fall short of rendering the
279 present invention obvious since there would still be no
280 establishing of a second port for subsequent server-initiated
281 communication from a server to a client as is clearly set forth
282 in applicant's independent claims 1, 13, 25, 26 and 28. It is
283 noted that applicant's establishment of a second port is for the
284 purpose of enabling a subsequent re-connection from the server to
285 the client whereas the use of dual mode data transfer controller
286 in Burrus is for the purpose of eliminating time delays in
287 overall memory access throughput - two entirely different
288 purposes cannot suggest a combination. Thus it is submitted that
289 claims 1, 13, 25, 26 and 28 are allowable under 35 USC 103(a)
290 over Potter even in view of Burrus. Further, since the remaining
291 claims of the group rejected under 35 USC 103(a) over Potter in

APPEAL BRIEF
PAGE 10 OF 22

view of Burrus, i.e. claims 2-7, 9, 14-19, 21, 23-24 and 27, include the limitations described above which are not even suggested by either Potter or Burrus, it is submitted that all of the claims of the first group, i.e. claims 1-7, 9, 13-19, 21 and 23-28 are allowable under 35 USC 103(a) over Potter in view of Burrus.

II. With regard to the rejection of claims 8 and 20 under 35 USC 103(a) as being unpatentable over Potter, in view of Burrus and in still further view of Harrington, it is submitted that there is no suggestion in any of the references for the proposed combination and even the proposed combination fails to suggest several of the claimed features. It is noted that Harrington discloses a process and apparatus for conducting auctions over electronic networks but, like Potter and Burrus, does not disclose, or even suggest, the establishment of a second port for subsequent incoming server communications, and then the client disconnect and server reconnect sequence and the sending of server information over the newly established second communication port as disclosed and claimed by the applicant. Further, claims 8 and 20 are dependent claims and include all of the limitations of claims 1 and 13 which have hereinbefore been distinguished from the Potter and Burrus references. Thus, even a hypothetical combination of Potter, Burrus and Harrington fails to suggest the combination claimed by the applicant in claims 8 and 20 and therefore it is submitted that claims 8 and 20 are allowable under 35 USC 103(a) over Potter in view of Burrus and in still further view of Harrington.

**APPEAL BRIEF
PAGE 11 OF 22**

Serial Number 09/773,190
Attorney Docket No. AUS920010007US1

III. With regard to the rejection of claims 10-12 and 22-24 as being unpatentable under 35 USC 103(a) over Potter, in view of Burrus and in still further view of Davis, it is submitted that the hypothetical combination of Potter, Burrus and Davis cannot render claims 10-12 and 22-24 obvious under 35 USC 103(a) since there is no suggestion in any of the three references for the proposed combination, and even the proposed hypothetical combination fails to suggest several of the claimed features, including, *inter alia*, the establishment of a second port for subsequent incoming server communications, and then the client disconnect and server reconnect sequence and the sending of server information over the newly established second communication port as disclosed and claimed by the applicant. Further, claims 10-12 and 22-24 are dependent claims and include all of the limitations of claims 1 and 13 which have hereinbefore been distinguished from the Potter and Burrus references. Thus, even a hypothetical combination of Potter, Burrus and Davis (which was cited merely to show a portable wireless unit) fails to suggest the combination claimed by the applicant in claims 10-12 and 22-24 and therefore it is submitted that claims 10-12 and 22-24 are allowable under 35 USC 103(a) over Potter in view of Burrus and in still further view of Davis.

CONCLUSION

For the reasons stated above, applicant urges the Board to conclude that the rejection of claims 1-7, 9, 13-19, 21 and 23-28 under 35 USC 103(a) as being unpatentable over Potter in view of Burrus, and the rejection of claims 8 and 20 under 35 USC 103(a)

APPEAL BRIEF
PAGE 12 OF 22

Serial Number 09/773,190
Attorney Docket No. AUS920010007US1

as being unpatentable over Potter in view of Burrus and in still further view of Harrington, and the rejection of claims 10-12 and 22-24 under 35 USC 103(a) as being unpatentable over Potter in view of Burrus and in still further view of Davis, are not well-founded and should be reversed.

Please charge IBM Corporation Deposit Account No. 09-0447 in the amount of \$500.00 for submission of a Brief in Support of Appeal. No additional fee or extension of time is believed to be required; however, in the event an additional fee or extension of time is required, please charge the fee, as well as any other fee necessary to further the prosecution of this application, to the above-identified deposit account.

Respectfully submitted,

Robert V. Wilder

Robert V. Wilder (Tel:512-246-8555)
Registration No. 26,352
Attorney for Applicant
4235 Kingsburg Drive
Round Rock, Texas 78681

APPEAL BRIEF
PAGE 13 OF 22

Serial Number 09/773,190
Attorney Docket No. AUS920010007US1

APPENDIX

375
376

377 1. A method for processing electronic transactions, said method
378 comprising:

379

380 receiving input by a server terminal from a client device over a
381 first communication port to initiate an electronic transaction,
382 said electronic transaction requiring a subsequent communication
383 of an occurrence of a subsequent event from said server terminal
384 to said client device;

385

386 establishing a second communication port on said client device
387 for directly coupling said server terminal to said client device;

388

389 disconnecting said server terminal from said client device;

390

391 re-connecting said server terminal to said client device through
392 said second communication port by said server terminal upon an
393 occurrence of said subsequent event; and

394

395 transferring said subsequent communication regarding said
396 subsequent event from said server terminal to said client device
397 over said second communication port.

398

399 2. The method as set forth in claim 1 and further including:

400

401 detecting receipt of said transaction information by said client
402 device; and

403

404 providing an audio effect by said client device upon detection of

**APPEAL BRIEF
PAGE 14 OF 22**

***Serial Number 09/773,190*
Attorney Docket No. AUS920010007US1**

405 receipt of said transaction information.

406
407 3. The method as set forth in claim 2 wherein said audio effect
408 comprises an alert signal effective to alert a client that said
409 transaction information has been received, said client device
410 further including client input means arranged for enabling a
411 client to select characteristics of said audio effect.

412
413 4. The method as set forth in claim 3 wherein said input means is
414 effective to enable said client to select one or more tones as
415 said alert signal.

416
417 5. The method as set forth in claim 3 wherein said input means is
418 effective to enable said client to select a predetermined voice
419 message as said alert signal.

420
421 6. The method as set forth in claim 5 wherein, in addition to
422 said predetermined voice message, said input means is effective
423 to enable said client to select from a number of audio signals to
424 comprise said alert signal.

425
426 7. The method as set forth in claim 1 wherein said electronic
427 transaction comprises a purchase of an item by a client using
428 said client device.

429
430 8. The method as set forth in claim 1 wherein said electronic
431 transaction comprises an auction transaction wherein bids for an
432 item being auctioned are sent by said client device and received
433 by said server terminal, said server terminal being operable for:

434

APPEAL BRIEF
PAGE 15 OF 22

Serial Number 09/773,190
Attorney Docket No. AUS920010007US1

435 receiving bids for said item by said server terminal;
436
437 determining when a previously received bid is no longer a winning
438 bid; and
439
440 sending notice that said previously received bid is no longer a
441 winning bid, said notice comprising said transaction information
442 sent over said second communication port.
443
444 9. The method as set forth in claim 1 wherein said client device
445 is a computer system connected to said server terminal.
446
447 10. The method as set forth in claim 1 wherein said client device
448 is a wireless device.
449
450 11. The method as set forth in claim 10 wherein said wireless
451 device is a cellular device.
452
453 12. The method as set forth in claim 10 wherein said wireless
454 device is a portable device.
455
456 13. A system for processing electronic transactions, said system
457 comprising:
458
459 a server terminal;
460
461 a client device; and
462
463 means arranged for selectively connecting said client device to
464 said server terminal, said server terminal being selectively

APPEAL BRIEF
PAGE 16 OF 22

Serial Number 09/773,190
Attorney Docket No. AUS920010007US1

465 operable for:
466
467 receiving input by said server terminal from said client device
468 over a first communication port to initiate an electronic
469 transaction, said electronic transaction requiring a subsequent
470 communication of an occurrence of a subsequent event from said
471 server terminal to said client device;
472
473 establishing a second communication port on said client device
474 for directly coupling said server terminal to said client device;
475
476 disconnecting said server terminal from said client device;
477
478 re-connecting said server terminal to said client device through
479 said second communication port by said server terminal upon an
480 occurrence of said subsequent event; and
481
482 transferring said subsequent communication regarding said
483 subsequent event from said server terminal to said client device
484 over said second communication port.
485
486 14. The system as set forth in claim 13 wherein said client
487 device is selectively operable for:
488
489 detecting receipt of said transaction information from said
490 server terminal; and
491
492 providing an audio effect upon detection of receipt of said
493 transaction information.
494

**APPEAL BRIEF
PAGE 17 OF 22**

***Serial Number 09/773,190*
Attorney Docket No. AUS920010007US1**

495 15. The system as set forth in claim 14 wherein said audio effect
496 comprises an alert signal effective to alert a client that said
497 transaction information has been received, said client device
498 further including client input means arranged for enabling a
499 client to select characteristics of said audio effect.

500
501 16. The system as set forth in claim 15 wherein said input means
502 is effective to enable said client to select one or more tones as
503 said alert signal.

504
505 17. The system as set forth in claim 15 wherein said input means
506 is effective to enable said client to select a predetermined
507 voice message as said alert signal.

508
509 18. The system as set forth in claim 17 wherein, in addition to
510 said predetermined voice message, said input means is effective
511 to enable said client to select from a number of audio signals to
512 comprise said alert signal.

513
514 19. The system as set forth in claim 13 wherein said electronic
515 transaction comprises a purchase of an item by a client using
516 said client device.

517
518 20. The system as set forth in claim 13 wherein said electronic
519 transaction comprises an auction transaction wherein bids for an
520 item being auctioned are sent by said client device and received
521 by said server terminal, said server terminal being operable for:

522
523 receiving bids for said item by said server terminal;
524

APPEAL BRIEF
PAGE 18 OF 22

Serial Number 09/773,190
Attorney Docket No. AUS920010007US1

525 determining when a previously received bid is no longer a winning
526 bid; and
527
528 sending notice that said previously received bid is no longer a
529 winning bid, said notice comprising said transaction information
530 sent over said second communication port.
531
532 21. The system as set forth in claim 13 wherein said client
533 device is a computer system connected to said server terminal.
534
535 22. The system as set forth in claim 13 wherein said client
536 device is a wireless device.
537
538 23. The system as set forth in claim 22 wherein said wireless
539 device is a cellular device.
540
541 24. The system as set forth in claim 22 wherein said wireless
542 device is a portable device.
543
544 25. A server terminal arranged for processing electronic
545 transactions, said server terminal comprising:
546
547 means for receiving input from a client device over a first
548 communication port to initiate an electronic transaction, said
549 electronic transaction requiring a subsequent communication of an
550 occurrence of a subsequent event from said server terminal to
551 said client device;
552
553 means for establishing a second communication port on said client
554 device for directly coupling said server terminal to said client

**APPEAL BRIEF
PAGE 19 OF 22**

Serial Number 09/773,190
Attorney Docket No. AUS920010007US1

555 device;
556
557 means for disconnecting said server terminal from said client
558 device;
559
560 means for re-connecting said server terminal to said client
561 device through said second communication port by said server
562 terminal upon an occurrence of said subsequent event; and
563
564 means for transferring said subsequent communication regarding
565 said subsequent event from said server terminal to said client
566 device over said second communication port.
567
568 26. A client device for participating in an electronic
569 transaction, said client device comprising:
570
571 input means selectively operable for inputting client-related
572 transaction information relevant to said electronic transaction;
573
574 means for transmitting said client-related transaction
575 information to a server terminal over a first port, said server
576 terminal being operable in response to said client-related
577 transaction information for establishing a second port
578 selectively operable for sending server-related transaction
579 information to said client device;
580
581 means for disconnecting said server terminal from said client
582 device;
583
584 means for re-connecting said server terminal to said client

APPEAL BRIEF
PAGE 20 OF 22

Serial Number 09/773,190
Attorney Docket No. AUS920010007US1

585 device through said second port by said server terminal for
586 sending server-related transaction information to said client
587 device; and

588
589 means for selectively receiving said server-related transaction
590 information from said server terminal over said second port.

591
592 27. The client device as set forth in claim 26 and further
593 including audio means operable to produce an audio effect in
594 response to receipt of said server-related transaction
595 information.

596
597 28. A storage medium including machine readable coded indicia,
598 said machine readable coded indicia being selectively operable
599 when executed within a computer system for accomplishing the
600 steps of:

601
602 receiving input by a server terminal from a client device over a
603 first communication port to initiate an electronic transaction,
604 said electronic transaction requiring a subsequent communication
605 of an occurrence of a subsequent event from said server terminal
606 to said client device;

607
608 establishing a second communication port on said client device
609 for directly coupling said server terminal to said client device;

610
611 disconnecting said server terminal from said client device;

612
613 re-connecting said server terminal to said client device through
614 said second communication port by said server terminal upon an

APPEAL BRIEF
PAGE 21 OF 22

Serial Number 09/773,190
Attorney Docket No. AUS920010007US1

615 occurrence of said subsequent event; and
616
617 transferring said subsequent communication regarding said
618 subsequent event from said server terminal to said client device
619 over said second communication port.
620
621

APPEAL BRIEF
PAGE 22 OF 22

Serial Number 09/773,190
Attorney Docket No. AUS920010007US1